

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

GUILLERMO TRUJILLO CRUZ,

Plaintiff,

v.

BALLESTEROS,

Defendant.

Case No. 1:20-cv-00124-AWI-BAM (PC)

**ORDER DISMISSING ACTION WITHOUT  
PREJUDICE FOR FAILURE TO PAY FILING  
FEE AND FAILURE TO OBEY COURT  
ORDER**

(ECF No. 20)

Plaintiff Guillermo Trujillo Cruz (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On February 18, 2020, the assigned Magistrate Judge issued findings and recommendations recommending that Plaintiff’s application to proceed *in forma pauperis* be denied and that he be required to pay the \$400.00 filing fee in full to proceed with this action. (ECF No. 11.) Following an extension of time, Plaintiff objections on March 23, 2020. (ECF Nos. 15, 19.)

On September 9, 2020, the undersigned issued an order adopting the findings and recommendations in full and ordering Plaintiff to pay the \$400.00 filing fee in full within twenty-one (21) days to proceed with this action. (ECF No. 20). Plaintiff was warned that if he failed to pay the filing fee within the specified time, the action would be dismissed without further notice. (Id. at 2.)

On September 18, 2020, Plaintiff filed a motion for an extension of time to file a response to the September 9, 2020 order adopting the findings and recommendations. (ECF No. 21.) Finding that Plaintiff had not properly identified good cause for the request, and that the order did not require a written response, the Magistrate Judge denied the motion. (ECF No. 22.) On September 23, 2020, Plaintiff filed his response to the September 9, 2020 order adopting the findings and recommendations. (ECF No. 23.) Plaintiff argues that the Court should permit him

1 to proceed *in forma pauperis* in this action due to his indigency and attaches another copy of his  
2 prison trust account statement. (Id.)

3 On October 2, 2020, Plaintiff also filed what appear to be renewed objections to the  
4 February 18, 2020 findings and recommendations, as well as a renewed motion to proceed *in*  
5 *forma pauperis*. (ECF Nos. 24, 25.) In his objections, Plaintiff generally argues that the claims  
6 presented in this action are meritorious, and he should be permitted to proceed *in forma pauperis*  
7 in this action. (ECF No. 24.)

8 The Court has already determined that Plaintiff is subject to 28 U.S.C. § 1915(g), and that  
9 his allegations do not satisfy the imminent danger exception. Plaintiff's indigency or the  
10 underlying claims presented are not relevant to this determination, and Plaintiff has provided no  
11 further information that would warrant reconsideration of this finding. Therefore, prepayment of  
12 the filing fee is required in order to proceed with this action. The deadline to pay the filing fee  
13 has expired, and Plaintiff has failed to pay the filing fee or otherwise indicate his willingness to  
14 comply with the Court's order.

15 Because Plaintiff has failed to obey the Court's order and pay the appropriate filing fee,  
16 this case cannot proceed. This matter will be dismissed. See Ferdik v. Bonzelet, 963 F.2d 1258,  
17 1260–61 (9th Cir. 1992).

18 Accordingly, IT IS HEREBY ORDERED as follows:

- 19 1. This action is dismissed, without prejudice, for Plaintiff's failure to comply with the  
20 Court's order of September 9, 2020, (ECF No. 20), and his failure to pay the filing fee;  
21 and  
22 2. The Clerk of the Court is directed to terminate all pending motions and deadlines and  
23 close this action.

24 IT IS SO ORDERED.

25 Dated: October 8, 2020

26   
27 SENIOR DISTRICT JUDGE  
28